REMARKS

By this amendment, Applicants have amended claim 1 in order to positively recite:

a) that the filter structure used in the sampling member which is inserted into the closed space for sampling the air contained inside said closed space obliges the air to pass longitudinally through substantially the full length of the filter-forming element,and

b) that the detecting is made at room temperature.

The amendment to positively recite the feature a) is clearly disclosed, e.g., as can be clearly seen in Fig. 2A.

The amendment to recite feature b) is supported by the specification as originally filed, which foresees no heating step for detection notably when using a biosensor device, namely a detection at room temperature. For example, as disclosed in the paragraph bridging pages 13 and 14 of Applicants' specification, the biosensing detection can be done by means of an animal such as a dog whose sense of smell has been specially trained, which would clearly happen and at room temperature.

New independent Claims 37 and 38 have also been added. Claim 37 contains the further limitation to a detecting step with the help of a biosensor as foreseen by original claim 3. Claim 38 contains the further limitation to a detecting step of a substance which has a smell by an animal sniffing the filter as foreseen by original claim 4.

The amendments do not introduce new matter and are supported by the original disclosure under 35 U.S.C. § 112, first paragraph, as noted above.

Claims 1 to 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over EP '057 in view of Wilder et al (USPN 3,826,067) and in further view of Jenkins et al. (UPN 6,642,513). Applicants again traverse this rejection and request reconsideration thereof.

Applicants agree with the Examiner that EP '057 teaches a method for detecting contraband substances and does not teach a filter that comprises a hollow tubular outer casing containing a filter- forming element supported on a central element which is closed at one end.

However, it is noted that EP '057 requires in claim 1 and the corresponding specification the critical step 3, which performs a heating of the collected particulates to realize vapor of the contraband substance there from, and the further step 4, which requires analyzing the vapor for said contraband substance.

In the present invention, as has now been positively recited in claim 1, the detection step is made at room temperature. It is apparent in the specification that no heating is performed to vaporize the particles to be detected. This is also supported by, e.g., Example 1, where the detection is made with a biosensor such as an animal, such as a dog whose sense of smell has been specially trained (see the paragraph bridging pages 13 and 14 of Applicants' specification).

In view of this, EP '057 is clearly not relevant to amended claim 1. The same applies with regard to newly introduced independent claims 37 and 38.

The Office Action now cites Wilder as disclosing the same filter as that claimed by Applicants.

Wilder is clearly irrelevant even when combined with the method as disclosed in EP '057 in that it cannot teach the same method of

detection as claimed, which is different from EP '057.

In addition, the filter as disclosed in Wilder comprises a tubular screen 33 defining the longitudinal tubular wall of the filter structure which receives externally the filter element 36.

In view of this, and as is well shown by the arrows in figure 5 of Wilder, the air is passing transversely through the filter element and goes inside the axial part of the tubular element, which is contrary to the structure as disclosed and claimed in the amended claims where the air is obliged to pass longitudinally through substantially the full length of the filter element.

In view of this, the filter structure disclosed by Wilder is fundamentally different from the filter structure as presently claimed.

In view of the fact that the method of detection and the filter structure of the invention as now claimed are both different form EP '057, even combined with Wilder, it is respectfully submitted the claimed invention is unobvious over a combination of EP '057 and Wilder.

In view of this, the further citation of Jenkins as a third prior art reference to be combined with EP '057 and Wilder is not believed to support a conclusion of obviousness. Indeed, Jenkins only teaches to use flat filters, which is contrary to the filter disclosed by Wilder. In view of this, it would not have been obvious to further combine Jenkins with Wilder. In addition, the Office Action cites Jenkins since EP '057 discloses heating the filter at high temperature to vaporize the solid substances and the fibers or fabrics disclosed by Jenkins would be capable of sustaining such high temperature (see page 4, last full paragraph of the Office Action). It is respectfully submitted that this reasoning is improper with regard to the amended claims which recite a detecting at room temperature.

This Examiner's statement further shows that the invention as disclosed by the EP '057 is fundamentally different from Applicants' invention, Applicants' method as claimed would clearly not have been obvious to one of ordinary skill in the art to which the invention pertains.

In view of this, the rejections of claims 1 to 15 under 35 UCS § 103 over EP '057 in view of Wilder and further in view of Jenkins is believed to be clearly overcome.

Independent claims 37 and 38 are patentable for at least these reasons.

Independent claim 37 further recites the detection by a biosensor at room temperature, which is not at all disclosed in EP '057.

Similarly, new claim 38 is reciting the detection by an animal of a substance which as a smell, which is not at all disclosed in EP '057, where it is not possible at all since the substance to be detected is vaporized at high temperature as recognized by the Examiner.

In view of the foregoing remarks, it is clear that the present invention is unobvious over the prior art.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance of all the claims now in the application are requested.

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Respectfully submitted,

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